

AFTER ACTION REPORT

REGULAR CITY COMMISSION MEETING MONDAY, DECEMBER 13, 2010 6:30 P.M.

**DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL - CITY CLERK
3. SILENT INVOCATION AND PLEDGE TO THE FLAG:
4. APPROVAL OF MINUTES & AGENDA:

A. Minutes:

Regular City Commission Meeting – November 15, 2010.

The Commission voted unanimously to adopt the minutes of the Regular City Commission Meeting of November 15, 2010 with the following change: Page 2, Line 43 to read, “look into this issue as time did not allow the Commission to take further action tonight”.

B. Additions or Deletions to Agenda.

Mr. Cooney stated that Items 10-H and 10-I will be postponed to a later, more appropriate date. Commissioner Zischkau asked if these items can be placed on the first agenda in January and Mr. Cooney stated that will be done.

5. PRESENTATIONS/AWARDS/REPORTS:

A. Presentation - Superstar Student of the Month Certificates -

November, 2010.

- B. Proclamation – West Volusia Wolves Pee Wee Pop Warner Cheer Squad.**
- C. Presentation re: Update on status of Thornby Park Project.**

**6. PUBLIC FORUM – Citizen comments for items not on the agenda.
(4 minute maximum length)**

CONSENT All items marked with an * will be considered by one motion unless removed
AGENDA: from the Consent Agenda by a member of the City Commission. If an item is removed for clarification only, it will be discussed immediately following action on the Consent Agenda. If an item is removed for further discussion, it will be discussed under New Business immediately following the last listed item.

7. CONSENT AGENDA:

The Commission voted unanimously to approve Consent Agenda Items 7-A, 7-B, 7-C, 7-E, 7-F, 7-G and 7-H.

- * A. Request for consideration for renewal of Southeast Volusia Humane Society Contract.**

The Department of Enforcement Services utilizes Southeast Volusia Humane Society to house, care for and the humane disposition of impounded animals. Currently, there are only two humane societies that accept stray animals in Volusia County. Southeast Volusia Humane Society is one of those facilities we utilize on an as needed basis. There are no other known facilities that can perform or provide this service.

Approved by Consent Agenda - to approve the renewal of the Southeast Volusia Humane Society.

- * B. Request for consideration for renewal of Halifax Humane Society Contract.**

The Department of Enforcement Services utilizes Halifax Humane Society to house, care for and provide the humane disposition of impounded animals. Currently, there are only two humane societies that accept stray animals in Volusia County. Halifax Humane Society is one of those facilities we utilize on an as needed basis. There are no other known facilities that can perform or provide this service.

Approved by Consent Agenda - to approve the renewal of the Halifax Humane Society Contract.

*** C. Request for approval for renewal of Physio-Control, Inc. Technical Service Support Agreement.**

On August 16, 2010, the City Commission approved the purchase agreement of ten LifePak 15 Cardiac Monitors and a budget amendment to record receipt for a matching Emergency Medical Services (EMS) grant from the State of Florida, Department of Health, and Bureau of EMS.

Physio-Control, Inc. is the sole source provider for the LifePak Cardiac Monitors. A Technical Service Support Agreement has been in place since 2005 and is renewed on an annual basis. The service support agreement includes standard repairs, upgrades, power adapters, battery replacements and software updates that helps ensure the device is in a state of optimum readiness.

This year, the agreement will expand over a three-year period for a total of \$31,215.00, payable in annual installments. The annual installments are \$10,405.00. The Fire Department is requesting approval of the Technical Service Support Agreement for the three year period to lock in a price that is \$1,204.00 less per year than the last contract. An overall savings of \$3,612.00.

Approved by Consent Agenda - to approve the renewal of Physio-Control, Inc. Technical Service Support Agreement.

D. Request for approval of Waiver of Fees for Martin Luther King (MLK) Celebration at Deltona Amphitheater and Dewey Boster Sports Complex.

The City has received a request from Mike Williams, Chairman, MLK Celebration Committee, representing the not for profit organization of the African-American Association of Deltona, for waiver of the applicable costs and permit fee associated with the MLK Celebration at the Deltona Amphitheater on Saturday, January 16, 2011 and the Dewey Boster Sports Complex scheduled for January 17, 2011.

The costs associated with the request for waiver of fees/costs and an in-kind service from Fire and Sheriff's Department includes the following:

Parks & Recreation - \$1,625.00 (field rentals, amphitheater fees, application fee, supplies, one employee)

Fire/Rescue - \$ 700.00 (standby unit, permit fee)

Sheriff's Dept. - \$ 0

Public Works - \$ 300.00 (generator)

Total: \$2,625.00

After discussion, the Commission voted unanimously to approve the Waiver of Fees for the Martin Luther King (MLK) Celebration at Deltona Amphitheater and Dewey Boster Sports Complex.

- * E. **Request for consideration of approval of revised By-Laws for the William S. Harvey Scholarship Selection Committee.**

The City Commission discussed the need to provide assistance for Deltona students interested in attending college in Florida, and has approved funding from the City's Recycling Fund. The Commission discussed the issue in a work session on October 22, 2007, and outlined a process to include adoption of the program, appointment of a Scholarship Committee, and selection of scholarship recipients. On November 5, 2007, the City Commission approved the creation of a City's Scholarship Program.

The Committee has discussed and is making a recommendation to change the Committee's By-Laws as presented.

Approved by Consent Agenda - to approve the revised By-Laws for the William S. Harvey Scholarship Selection Committee.

- * F. **Resolution No. 2010-42, Providing for the amendment of the City Commission's Operating Guidelines and Meeting Rules and Procedures.**

At the December 4th Commission workshop meeting, the Commission discussed not allowing participation by Commission members at City Commission meetings via telephone, and requiring members to be physically present in order to participate in a meeting of the City Commission.

Approved by Consent Agenda - to approve Resolution No. 2010-42, Providing for the amendment of the City Commission's Operating Guidelines and Meeting Rules and Procedures.

- * G. **Request for formal approval of action items from City Commission's December 4th workshop meetings.**

Approved by Consent Agenda - to approve the action items that were discussed at the December 4th workshop.

- * H. **Request for approval of an Amendment to Conservation Easement for the Ledford Regional Stormwater System as required by St. Johns River Water Management District.**

The proposed easement is an amendment required by the St. Johns River Water Management District (SJRWMD) of the conservation easement granted several

years ago by the City. The purpose of this proposed amended easement is to allow the City to construct wooden boardwalks and mulched trails for educational purposes through the properties previously placed under a conservation easement to the District.

The construction of these boardwalks and trails is part of the public educational aspects contained within the Florida Department of Environmental Protection (DEP) grant to the City for the construction of the Ledford Regional Stormwater System.

As mitigation for the environmental impacts, the City and District have agreed upon the inclusion of an additional 4.0529 acres of wetlands and 1.2677 uplands located at the southwest corner of the Ledford property. These wetlands are not usable to the City nor are they part of the Ledford Regional Stormwater System. Upon acceptance of this easement by the District governing board, the City will be in a position to proceed with Phase II of the Ledford Regional Stormwater System. There is no additional cost involved with amending this conservation easement.

Approved by Consent Agenda - to approve the Amendment to the Conservation Easement for the Ledford Regional Stormwater System as required by St. Johns River Water Management District.

8. ORDINANCES AND -PUBLIC HEARINGS:

A. Public Hearing - Ordinance No. 12-2010, adopting the updated Capital Improvements Element (CIE) of the City of Deltona's Comprehensive Plan, at second and final reading.

The Capital Improvements Element of the Comprehensive Plan must be reviewed and updated by December of each year. Deltona may not amend its Future Land Use Map until the annual update of the CIE is adopted and has been found in compliance by the Florida Department of Community Affairs (DCA). Staff reviewed the current Class "A" capital improvements, summarized expenditures, and funds carried forward for the next five (5) years to ensure compliance with adopted levels of service (LOS) standards. Adjustments have been made to update the CIE, in collaboration with the City's Finance Department.

The first reading for Ordinance No. 12-2010, required by Section 166.041, Florida Statutes (F.S.), was approved by the City Commission on November 15, 2010. The second reading of Ordinance No. 12-2010 is pursuant to Section 166.041 F.S. and constitutes the single public hearing required for CIE amendment adoption, consistent with Section 163.3177(3)(b)(2), F.S.

A copy of the complete Element referenced as Exhibit A was provided to the Commission via a CD for the November 15th Commission meeting; no changes have been made to the proposed CIE since the November 15th Commission

meeting. A paper copy of the Element is available as needed and will be on hand at the December 13th Commission meeting as well.

After discussion, the Commission voted unanimously to approve Ordinance No. 12-2010, adopting the updated Capital Improvements Element (CIE) of the City of Deltona's Comprehensive Plan, at second and final reading.

B. Public Hearing - Ordinance No. 17-2010, amending City Code Section 110.1202.05 (15) and (16), *Applications and proposals requiring public hearings*, that pertain to the level of review required for development applications, at second and final reading.

The existing criteria used to determine the process for considering development-related application approval that requires a public hearing before the Planning and Zoning Board (Board) and the City Commission has remained unchanged since 1999. These items include amendments to any element of the City's Comprehensive Plan, Land Development Code, Subdivision Regulations, and Zoning

Ordinance, zoning variances, conditional uses, capital improvement programs, environmental ordinances, design standards, planned unit developments and Developments of Regional Impact.

The City Commission recently expressed interest in finding effective ways to streamline the plan review and permitting process. Staff explored options to accomplish these goals and ensured that the City remained aligned with established planning principles designed to protect public health, safety, and welfare.

On September 15, 2010, the Planning and Zoning Board discussed this item and suggested that staff consider raising the Planning and Zoning Board review thresholds for final site plans from 5,000 square feet to 30,000 square feet for non-residential uses and from 25 lots to 200 lots for single family residential subdivisions; as well as to add 15 dwelling units per acre for multi-family residential use. Staff reviewed the proposed revisions and found that it is similar to criteria used throughout Florida.

On October 20, 2010, the Board recommended to approve the revisions to Ordinance No. 17-2010, pertaining to the density and intensity thresholds that affect when development applications are reviewed by the Planning and Zoning Board. The City Commission approved Ordinance No. 17-2010 at first reading on November 15, 2010.

After discussion, the Commission voted unanimously to approve Ordinance No. 17-2010, amending City Code Section 110.1202.05 (15) and (16), *Applications and proposals requiring public hearings*, that pertain to the level of review required for development applications, at second and final reading.

C. Public Hearing - Resolution 2010-41, creating an affordable housing property inventory.

Florida law requires municipalities to adopt by resolution, after public hearing, an inventory of all property held by the municipality for affordable housing purposes. Resolution No. 2010-41 fulfills this statutory requirement.

After discussion, the Commission voted unanimously to approve Resolution 2010-41, creating an affordable housing property inventory.

D. Public Hearing - Request for approval and submission of the 2009 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG).

The Program Year 2009 Consolidated Annual Performance and Evaluation Report (CAPER) is a summary of the accomplishments of Title 24 Federally-funded activities administered by the City of Deltona's Planning and Development Services Department.

This performance report is submitted in accordance with regulations governing Consolidated Submissions for Community Planning and Development Programs (24 CFR 91.520) and Consolidated Annual Performance and Evaluation Reporting requirements, as directed by the U. S. Department of Housing and Urban Development (HUD). The purpose of the CAPER is to report on the City's use of Federal entitlement funding allocated from HUD in the form of CDBG.

The City submits a five-year strategic plan for the CDBG Federal entitlement program, referred to as the Consolidated Plan (Plan). The most recent Plan is for Program Years 2008-2012 and describes the City's strategy for addressing housing and other community needs. The Plan is implemented through an Annual Action Plan, which describes how the Federal entitlement funding for that particular Program Year will be used to implement the five year strategic plan. The Program Year 2009 CAPER consists of narratives and tables that explain the progress made in implementing the activities and achieving the goals and objectives set forth in the 2008-2012 Consolidated Plan and the Program Year 2009 Action Plan.

In accordance with the public participation plan, staff conducted the necessary public hearing on December 7, 2010. Staff also advertised the 2009 CAPER report for a 15-day public comment period and a draft of the CAPER was available for review at City Hall. Additionally, the final Public hearing for the 2009 CAPER is to be held at the December 13, 2010, City Commission public hearing to obtain input and approval.

After discussion, the Commission voted unanimously to approve the submission of the 2009 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG).

9. OLD BUSINESS:

A. Request to Amend the Title of the Neighborhood Stabilization Program (NSP) Development Agreement Between the City of Deltona and Southwest Volusia Habitat for Humanity, Inc.

The City of Deltona was awarded \$6,635,909 from the United States Department of Housing and Urban Development (HUD) in September 2008, for the Neighborhood Stabilization Program 1 (NSP 1). As part of our contract with HUD, the City was responsible for obligating 100% of its funds by September 2010, which it accomplished. Allowable activities to obligate the funds include selection of a Responsible Organization that the City can partner with and assign duties to, in lieu of the City performing the task.

The City Commission approved a Development Agreement on September 8, 2010, allowing the City to enter into a partnership with Southwest Volusia Habitat for Humanity, Inc. (Habitat) for the purpose of demolishing and reconstructing a home located at 3064 Shallowford Street and the construction of new houses on vacant land located at 3230 Tallwood Drive and 1242 Abigail Drive, respectively.

The City subsequently received correspondence from HUD requesting that the aforementioned Development Agreement and corresponding Addendum "A" be retitled to Subrecipient Agreement, as the agreement is more reflective of that type of document. The City responded to HUD that it would comply and bring the retitled agreement to the City Commission for approval. In addition, Cost Estimates and Scopes of Work for those units provided by Habitat are included as attachments.

After discussion, the Commission voted unanimously to Amend the Title of the Neighborhood Stabilization Program (NSP) Development Agreement Between the City of Deltona and Southwest Volusia Habitat for Humanity, Inc.

10. NEW BUSINESS:

A. Request for approval for renewal of Facility Use Agreement for 2010-2011 with the Taino Boxing Academy.

Taino Boxing Academy, Inc. is a Florida non-profit corporation who has maintained a Long Term Facility Use Agreement with the City of Deltona since 2009. The Academy provides a recreational boxing program to Deltona youths.

Taino Boxing Academy is affiliated with USA Boxing, which is the national governing body of amateur, Olympic style boxing, and is the United States member organization of the International Amateur Boxing Association (AIBA). As a national governing body recognized by the United States Olympic Committee, USA Boxing is responsible for the administration, development and promotion of Olympic style boxing in the United States. USA Boxing is a nonprofit organization and is managed by a Chief Executive Officer who reports to a Board of Directors.

Taino Boxing Academy utilizes the building located at the Campbell Park facility on Monday through Friday, from 4:00 p.m. to 8:00 p.m., with extended hours on school release days, and 11:00 a.m. to 8:00 p.m. during non-school sessions.

The standard fee for the use of this facility is \$35.00 per hour, less a 20% discount for entering into a facility use agreement. The City Commission waived fees for this facility use in 2009. The Academy is asking that the standard facility use fee be waived for the 2010-2011 period.

Taino Boxing Academy has met the criteria requirements for a Long Term Facility Use Agreement with the City. Staff recommends a one (1) year Long Term Facility Use

Agreement with an option to renew for three (3) additional one-year terms, subject to the receipt and acceptance of a timely Facility Use Renewal Form.

Based upon the background checks which have been required by the Commission, it was determined that one of the principals in this organization has a history of arrests for violence, including at least one arrest for violence against a minor. As the City is not a sponsor of the activity, but is solely a landlord, the staff was unsure if this information would impact the request to rent the facility. On the other hand, the staff believed the Commission should be aware of the result of the background check.

After discussion, the Commission voted unanimously to approve an extension of the current Facility Use Agreement with the Taino Boxing Academy until the second City Commission meeting in January 2011.

B. Consideration of request from Deutsche Bank for reduction of fine from \$10,000.00 assessed for each case pursuant to Special Magistrate Case DEL-09-069, DEL-09-070 and DEL-09-071 for a total of \$30,000.00.

An order Imposing Fine/Lien was entered on April 22, 2009, by the City of Deltona Special Magistrate, ordering Kenneth and Deshika Mitcheel to pay to the City of Deltona a fine in the amount of fifty dollars (\$50.00) per day beginning April 22, 2009, for each and every day the violations exist and continue to exist or until a maximum amount of \$10,000.00 is reached on all three cases. The violation occurred when the respondent failed to replace or repair a garage door, clean the debris and repair a fence located on the property at 2581 E. Dorchester

Drive. The respondent failed to come into compliance and the total accumulated amount due is \$10,000.00 per case for a total of \$30,000.00. The home was foreclosed and Deutsche Bank was issued a Certificate of Title in June 2010. On November 23, 2010, the respondent's representative, Attorney Maridith Abriss, appeared before the Special Magistrate to request a recommendation to reduce the fine.

After discussion, the Commission voted unanimously to reduce the fine from \$10,000.00 assessed for each case to \$1,000 for each case pursuant to Special Magistrate Case DEL-09-069, DEL-09-070 and DEL-09-071 for a total of \$3000 .

C. Consideration of request from Mr. Guy Skehan Jackson for reduction of fine from \$47,000 assessed pursuant to Code Board Case DEL-97-129 (Repeat).

An order Imposing Fine/Lien was entered on June 28, 1999, by the City of Deltona Code Board, ordering Guy Skehan Jackson to pay to the City of Deltona a fine in the amount of two hundred and fifty dollars (\$250.00) retroactively to April 30, 1999 and continue until the property was brought into compliance. The violation occurred when the respondent failed to properly park his boat at the property located at 655 Hartley Circle. The respondent failed to come into compliance for 190 days and the total accumulated amount due is \$47,000.00. Mr. Jackson and his attorney (Darren Elkind) appeared before the Special Magistrate to request a recommendation to reduce the fine.

After discussion, the Commission voted unanimously to reduce the fine to \$1,000 (from \$47,000) assessed pursuant to Code Board Case DEL-97-129 (Repeat).

D. Request for approval of Commission Policy No. CC10-01, *Expression of Sympathy*.

At the December 4th Commission workshop meeting, the Commission discussed the issue of the City providing "expressions of sympathy" in the event of the death of an immediate family member of an elected official or City staff member. Administrative Policy No. CW 99-005, Gift and Event Policy, as approved by former City Manager, Steve Thompson, will be rescinded based on the Commission's direction at the December 4th meeting.

It should also be noted that staff has contacted a couple of local florists and a \$25.00 potted plant not including a delivery charge is quite limiting. Both florists contacted require a \$10.00 delivery charge, therefore the potted plant value would be \$15.00 given the Commission's direction, or the direction could be that City staff deliver the plant to the affected individual's home or office, or purchase such plants from a source other than our local florists.

After discussion, the Commission voted 5 to 2 (with Commissioner Carmolingo and Vice Mayor Treusch voting against the motion) to approve the Commission Policy No. CC10-01, Expression of Sympathy.

E. Consideration of appointment of seven (7) members to the Parks and Recreation Advisory Committee.

The terms of all seven (7) members of the Parks and Recreation Advisory Board expire on December 3, 2010. All of the current members, with the exception of Linda Bauer, Julia Carson and Larry French have expressed that they wish to be re-appointed to this Committee.

The City has run press releases and posted the openings on D-TV, the City's WebPage and bulletin boards. To date, the City has received applications from the following interested individuals: Bernice Ludvick, Constantino Chinchay, Janet Deyette, Julio DeLeon, Patty Srebernak, James Ruth, and Debra Wert.

After discussion, the Commission voted unanimously to confirm the appointment of Bernice Ludvick (Commissioner Carmolingo's appointment), Julio DeLeon (Vice Mayor Treusch's appointment), James Ruth (Mayor Masiarczyk's appointment), Constantino Chinchay (Commissioner Zischkau's appointment), Susan Armon (Commissioner Denizac's appointment), Patty Srebernak (Commissioner Lowry's appointment) and Commissioner Herzberg postponed her appointment until the next meeting.

F. Consideration of appointment of seven (7) members to the City's Beautification Advisory Board.

The terms of all seven (7) members of the Beautification Advisory Board expired on November 30, 2010. All of the current members with the exception of Al Manassa and Gretchen Venn have expressed that they wish to be reappointed to this Board.

The City has run press releases and posted the openings on D-TV, the City's WebPage and bulletin boards. To date the City has received applications from the following interested individuals: Erin Pitts, Kristina DelleDonne, Veronica Kenney, Barbara Willey, Valerie Knopf, Harold Wooten, Michael Richards, and Jason Bridgewater.

After discussion, the Commission voted unanimously to confirm the appointment of Michael Richards (Commissioner Carmolingo's appointment) Veronica Kenny (Mayor Masiarczyk's appointment), Jason Bridgewater (Commissioner Zischkau's appointment), Barbara Willey (Commissioner Denizac's appointment), Harold Wooten (Commissioner Lowry's appointment), Valerie Knopf (Commissioner Herzberg's appointment), and Vice Mayor Treusch postponed his appointment until the next meeting.

G. Consideration of one (1) Commission representative to the Volusia Transportation Planning Organization (TPO).

The Volusia TPO is an independent organization responsible for the planning and programming of all Federal and State transportation funds for all of Volusia County and the Cities of Flagler Beach and Beverly Beach in Flagler County. This organization is the primary forum within which member local governments and citizens voice concerns, identify priorities, and plan for transportation improvements for all modes of transportation – roadway, public transportation, and bicycle and pedestrian facilities.

The Volusia TPO Board membership consists of elected officials representing all of the local governments, including municipal and county entities. As outlined in Florida Statutes, the Volusia TPO Board is comprised of 19 voting members who review local, regional, and statewide transportation issues and work cooperatively to determine appropriate policy to address transportation needs. In addition, there are five non-voting members on the Volusia TPO Board who are appointed primarily to provide information and recommendations to the Volusia TPO Board.

The Volusia TPO Board meets on the fourth Tuesday of every month and all meetings are properly noticed and open to the public. Board meetings are held at the Volusia TPO office, 2570 W. International Speedway Blvd., Suite 100, Daytona Beach, Florida and begin promptly at 8:00 AM.

Former Commissioner Janet Deyette was the City's representative to the TPO.

After discussion, the Commission voted unanimously to confirm the appointment of Commissioner Zischkau to the Volusia Transportation Planning Organization (TPO).

H. Provision of an attorney for Commissioner Zischkau.

I. Intervention into lawsuit between Howland Crossings and Commissioner Zischkau.

11. CITY COMMISSION COMMENTS:

12. CITY ATTORNEY COMMENTS:

13. CITY MANAGER COMMENTS:

14. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 878-8100.